

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	Chapter 11
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III

**TRUSTEE’S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH PAUL KROPF D/B/A K&K FARMS**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee (“Trustee”) for the bankruptcy estate (“Estate”) of Eastern Livestock Co., LLC (“Debtor”), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and Paul Kropf d/b/a K&K Farms (“Kropf”). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case (“Chapter 11 Case”) on December 6, 2010 (“Petition Date”). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee’s Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. The Trustee filed the *Trustee’s Chapter 11 Plan of Liquidation* on July 23, 2012 [Docket No. 1255] and the *First Amended Chapter 11 Plan of Liquidation* on October 26,

2012 [Docket No. 1490] (“Plan”). The Court entered an Order on December 17, 2012 [Docket No. 1644] (“Confirmation Order”) confirming the Plan.

4. The Trustee contends that on or about November 2, 2010, Debtor delivered 72 steers (“Kropf Cattle”) from Kropf’s farm in Arkansas to the feedyard located at 500 South Taylor in Amarillo, Texas that is operated by Friona Industries, L.P. (“Friona”) or its affiliate. At the time Debtor took possession of the Kropf Cattle, the selling price agreed with Debtor was \$55,579.96 based on the steers total weight after loading.

5. Friona interpleaded the sum of \$56,440.54 with the Court for the Kropf Cattle that it received (“Interpleaded Funds”) in connection with Adversary Proceeding No. 11-59093 (“Adversary”).

6. The Trustee contends that the Interpleaded Funds are property of Debtor’s bankruptcy estate. Kropf contends that the Interpleaded Funds are not property of the estate because Debtor received the Kropf Cattle as a bailment and Kropf never conveyed title to Debtor.

The Settlement

7. The Trustee has negotiated a settlement of the claims made by Kropf to the Interpleaded Funds related to the Kropf Cattle on the terms set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A (“Settlement Agreement”).¹

Pursuant to the Settlement Agreement, the Trustee and Kropf have agreed to divide the

¹ During 2014, the Trustee settled preference claims with Amos Kropf. See Settlement Agreement and Mutual Release (July 7, 2014) attached at Exhibit A to Motion to Approve Compromise and Settlement with Amos Kropf Pursuant to Rule 9019 [Dkt. 2618 filed on July 30, 2014]. Paul and Amos Kropf are relatives who are involved from time to time in various cattle transactions. The interpleaded cattle proceeds at issue in the settlement that is the subject of today’s Motion are unrelated to the claims the Trustee and Amos Kropf released previously. For the avoidance of any doubt, however, the Settlement Agreement and Mutual Release attached to this Motion includes all remaining claims of any nature that Paul Kropf, *Amos Kropf* or the Trustee may have against one another concerning the debtor’s estate, the Trustee, or the Trustee’s professionals.

Interpleaded Funds, with Kropf receiving \$30,000.00 of the Interpleaded Funds, and the Trustee receiving the remaining \$26,440.54 of the Interpleaded Funds, plus all accrued interest. The parties shall release and waive all other claims related to the Kropf Cattle.

8. In accordance with the terms of the Plan, the \$26,440.54 of Interpleaded Funds and interest received by the Trustee shall become part of the Collateral Fund (as that term is defined in the Plan).

Basis for Relief

9. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

10. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc., 886 F.2d 921, 927 (7th Cir. 1989).

11. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the Estate. The relative rights in and to the Interpleaded Funds is disputed and would require litigation and trial expenses to resolve. Accordingly, continued litigation with Kropf would result in significant expenses and delay and could result in a smaller recovery to the Estate.

12. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed

objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Kevin M. Toner

Kevin M. Toner (#11343-49)
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204-1782
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
kevin.toner@faegrebd.com

*Counsel for James A. Knauer, Chapter 11
Trustee*

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2016, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
davidabt@mwtnet.net

John D Dale, Jr.
Johndaleatty@msn.com

John W. Ames
james@bgdlegal.com

Kay Dee Baird
kbaird@kdlegal.com

Christopher E. Baker
cbaker@thbklaw.com

Robert A. Bell
rabell@vorys.com

C. R. Bowles, Jr
cbowles@bgdlegal.com

David W. Brangers
dbrangers@lawyer.com

Steven A. Brehm
sbrehm@bgdlegal.com

Kent A Britt
kabritt@vorys.com

Kayla D. Britton
kayla.britton@faegrebd.com

Joe Lee Brown
Joe.Brown@Hardincounty.biz

Lisa Koch Bryant
courtmail@fbhlaw.net

John R. Burns, III
john.burns@faegrebd.com

John R. Carr, III
jrciii@acs-law.com

Deborah Caruso
dcaruso@rubin-levin.net

Ben T. Caughey
ben.caughey@icemiller.com

Bret S. Clement
bclement@acs-law.com

Joshua Elliott Clubb
joshclubb@gmail.com

Jason W. Cottrell
jwc@stuartlaw.com

Kirk Crutcher
kcrutcher@mcs-law.com

Jack S. Dawson
jdawson@millerdollarhide.com

Dustin R. DeNeal
dustin.deneal@faegrebd.com

Laura Day Delcotto
ldelcotto@dlgfirm.com

David Alan Domina
dad@dominalaw.com

Shawna M. Eikenberry
shawna.eikenberry@faegrebd.com

Robert Hughes Foree
robertforee@bellsouth.net

Thomas P. Glass
tpglass@strausstroy.com

Paul M. Hoffman
paul.hoffmann@stinsonleonard.com

Jeffrey L. Hunter
jeff.hunter@usdoj.gov

Todd J. Johnston
tjohnston@mcjllp.com

Edward M King
tking@fbtlaw.com

Theodore A. Konstantinopoulos
ndohbky@jbandr.com

David L. LeBas
dlebas@namanhowell.com

Kim Martin Lewis
kim.lewis@dinslaw.com

Jason A. Lopp
jlopp@wyattfirm.com

John Frederick Massouh
john.massouh@sprouselaw.com

James Edwin McGhee
mcghee@derbycitylaw.com

Kevin J. Mitchell
kevin.mitchell@faegrebd.com

Judy Hamilton Morse
judy.morse@crowedunlevy.com

Walter Scott Newbern
wsnewbern@msn.com

Michael Wayne Oyler
moyler@rwsvlaw.com

Wendy W. Ponader
wendy.ponader@faegrebd.com

Eric C. Redman
ksmith@redmanludwig.com

David Cooper Robertson
crobertson@stites.com

Joseph H. Rogers
jrogers@millerdollarhide.com

Thomas C. Scherer
tscherer@bgdlegal.com

Daniel J. Donnellon
ddonnellon@ficlaw.com

Jeffrey R. Erler
jerler@ghjhlaw.com

Sandra D. Freeburger
sfreeburger@dsf-atty.com

Patrick B. Griffin
patrick.griffin@kutakrock.com

John David Hoover
jdhoover@hooverhull.com

Jay Jaffe
jay.jaffe@faegrebd.com

Jill Zengler Julian
Jill.Julian@usdoj.gov

James A. Knauer
jak@kgrlaw.com

Randall D. LaTour
rdlatour@vorys.com

Martha R. Lehman
mlehman@kdlegal.com

James B. Lind
jblind@vorys.com

John Hunt Lovell
john@lovell-law.net

Michael W. McClain
mmclain@mcclaindeweese.com

Brian H. Meldrum
bmeldrum@stites.com

Terrill K. Moffett
kendalcantrell@moffettlaw.com

Erin Casey Nave
enave@taftlaw.com

Matthew J. Ochs
kim.maynes@moyewhite.com

Ross A. Plourde
ross.plourde@mcafeetaft.com

Timothy T. Pridmore
tpridmore@mcjllp.com

Eric W. Richardson
ewrichardson@vorys.com

Mark A. Robinson
mrobinson@vhlaw.com

Steven Eric Runyan
ser@kgrlaw.com

Stephen E. Schilling
seschilling@strausstroy.com

Trevor L. Earl
tearl@rwsvlaw.com

William K. Flynn
wkflynn@strausstroy.com

Melissa S. Giberson
msgiberson@vorys.com

Terry E. Hall
terry.hall@faegrebd.com

John Huffaker
john.huffaker@sprouselaw.com

James Bryan Johnston
bjtexas59@hotmail.com

Jay P. Kennedy
jpk@kgrlaw.com

Erick P. Knoblock
eknoblock@daleeke.com

David A. Laird
david.laird@moyewhite.com

Scott R. Leisz
sleisz@bgdlegal.com

Karen L. Lobring
lobring@msn.com

Harmony A. Mappes
harmony.mappes@faegrebd.com

Kelly Greene McConnell
lisahughes@givenspursley.com

William Robert Meyer, II
rmeyer@stites.com

Allen Morris
amorris@stites.com

Matthew Daniel Neumann
mneumann@hhclaw.com

Jessica Lynn Olsheski
jessica.olsheski@justice-law.net

Brian Robert Pollock
bpollock@stites.com

Anthony G. Raluy
traluy@fbhlaw.net

Joe T. Roberts
jratty@windstream.net

Jeremy S. Rogers
Jeremy.Rogers@dinslaw.com

Niccole R. Sadowski
nsadowski@thbklaw.com

Ivana B. Shallcross
ishallcross@bgdlegal.com

Sarah Elizabeth Sharp
sarah.sharp@faegrebd.com

William E. Smith, III
wsmith@k-glaw.com

Andrew D. Stosberg
astosberg@lloydmc.com

John M. Thompson
john.thompson@crowedunlevy.com

Chrisandrea L. Turner
clturner@stites.com

Andrea L. Wasson
andrea@wassonthornhill.com

Sean T. White
swhite@hooverhull.com

James T. Young
james@rubin-levin.net

Suzanne M Shehan
suzanne.shehan@kutakrock.com

Amanda Dalton Stafford
ads@kgrlaw.com

Matthew R. Strzynski
indyattorney@hotmail.com

Kevin M. Toner
kevin.toner@faegrebd.com

U.S. Trustee
ustpregion10.in.ecf@usdoj.gov

Jennifer Watt
jwatt@kgrlaw.com

Michael Benton Willey
michael.willey@ag.tn.gov

John O'Brien
jobrien@swlaw.com

James E. Smith, Jr.
jsmith@smithakins.com

Joshua N. Stine
kabritt@vorys.com

Meredith R. Theisen
mtheisen@rubin-levin.net

Christopher M. Trapp
ctrapp@rubin-levin.net

Andrew James Vandiver
avandiver@aswdlaw.com

Ronald J. Moore
Ronald.Moore@usdoj.gov

Jason P. Wischmeyer
jason@wischmeyerlaw.com

I further certify that on September 16, 2016, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Thomas Richard Alexander, II
tra@rgba-law.com

/s/ Kevin M. Toner